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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77320288
Applicant	Swanson Tool Company, Inc.
Applied for Mark	H
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Submission	Applicant's Request to Extend
Attachments	091124 Request for 60 day extension.pdf (3 pages)(14394 bytes)
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Date	11/24/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Swanson Tool Company, Inc.

Serial No.: 77/320,288

Mark: H & Diamond Design

Filing Date: November 02, 2007

Examiner: Paul Moreno

Law Office: 103

REQUEST FOR A 60-DAY EXTENSION OF TIME TO FILE APPEAL BRIEF

Applicant, through its undersigned counsel, files this request for a 60-day extension of time to file its appeal brief. Applicant filed its application to register the mark H & Diamond Design on November 2, 2007. The Examiner has refused registration, contending that under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), there is a likelihood of confusion between Applicant's Mark and Registration No. 3,099,993 ("Cited Registration"). As demonstrated below, Applicant has good cause to extend the time to file its appeal brief for a period of sixty days until January 28, 2010.

BACKGROUND

Applicant filed its application to register the mark H & Diamond Design on November 2, 2007. The Examiner issued his Final Refusal on October 6, 2008. Registration

was refused because the Examiner contends that there is a likelihood of confusion between Applicant's Mark and the Cited Registration, under Section 2(d) of the Trademark Act. On April 6, 2009, Applicant filed a Request for Reconsideration with the Examiner. Also, on April 6, 2009, Applicant filed its Notice of Appeal and requested that these proceedings be suspended while the Request for Reconsideration was pending. Ultimately, the Request for Reconsideration was denied, and the present appeal was resumed. The deadline for Applicant to submit its appeal brief is currently set to expire on November 29, 2009.

ARGUMENT

Under Rule 1203.02(d) of the TTAB Manual of Procedure ("TBMP"), an applicant may request an extension of time to file an appeal brief upon showing good cause for the requested extension. TBMP Rule 1203.02(d). The rule states that "[t]he determination of good cause will be based upon all relevant circumstances, including the length of time of any previously granted extensions." TBMP Rule 1203.02(d). Even the "press of other business" may be sufficient to show good cause for an initial extension of time. TBMP Rule 1203.02(d).

Applicant seeks this extension request in good faith and not for purposes of delay. For example, Applicant has not sought an unreasonable number of extensions of time. In addition, Applicant requests this extension because Applicant needs additional time to review the matter with its counsel, and analyze the relevant issues in this appeal. Furthermore, the upcoming holiday travel schedules of both Applicant and counsel for Applicant necessitate this extension request.

CONCLUSION

Based upon the foregoing, Applicant respectfully requests that the Board grant its request for a 60-day extension of time to file its appeal brief until January 28, 2010.

Applicant has demonstrated good cause to grant this request.

Respectfully submitted,

SWANSON TOOL COMPANY, INC.

Dated: November 24, 2009

By: /Joseph T. Kucala, Jr./

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